

**Certified True Copy**  
**James Monsebroten**  
 Attorney at Law

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF COOS

LAURA L. BROWN,  
 Plaintiff,

Case No. 14CV0493

SUMMONS

v.

WATERFALL CLINIC,  
 INCORPORATED,  
 Defendant.

TO: Kathryn Laird, Registered Agent  
 WATERFALL CLINIC, INCORPORATED  
 1890 Waite Street, Suite 1  
 North Bend, OR 97459

**YOU ARE HEREBY REQUIRED** to appear and defend the Complaint filed against you in the above entitled cause within 30 days from the date of service of this SUMMONS upon you, and in case of your failure to do so, or want thereof, plaintiff will apply to the court for relief demanded in the complaint.

**NOTICE TO THE RESPONDENT: READ THESE PAPERS CAREFULLY!**

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer". The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the Plaintiff's attorney or, if the Plaintiff does not have an attorney, with proof of service upon the Plaintiff. If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer referral service at area code (503) 684-3763 or toll free in Oregon at 1-(800)-452-7636.

Date

James Monsebroten, OSB # 981523  
 Attorney for Plaintiff

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**James Monsebroten**  
**Attorney at Law**

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
 FOR THE COUNTY OF COOS

LAURA L. BROWN,	)	
	)	Case Number 14CV <u>0493</u>
Plaintiff,	)	(Nursing Malpractice, Negligence)
and	)	
	)	
WATERFALL CLINIC,	)	
INCORPORATED,	)	
Defendant.	)	(damages sought \$ 900,000)

Plaintiff alleges:

1.

This action is brought on behalf of Plaintiff LAURA L. BROWN (hereinafter "Ms. Brown" or "Plaintiff") against Defendant WATERFALL CLINIC, INCORPORATED (hereinafter "Defendant"), on a claim for nursing malpractice and negligence. Plaintiff seeks to recover from Defendant her damages pursuant to injuries that the Plaintiff sustained as a result of the Defendant's employee's nursing malpractice and negligence.

2.

Jurisdiction is conferred on this court as all acts and omissions by defendant occurred in Coos County, Oregon. Defendant is a business located in Coos County Oregon. Plaintiff is a resident of Coos County, Oregon.

3.

On or about the May 2011, Ms. Brown had an annual pelvic exam with the Water Fall clinic, defendant. The purpose of the pelvic exam was to determine the health of Ms. Brown's reproductive system and check for concerns such as cancer or masses. During the exam defendants employee nurse failed to note large cancerous masses. The exam indicated no sign of

PAGE 1 – COMPLAINT DAMAGES (NURSING MALPRACTICE, NEGLIGENCE, INFLICTION OF EMOTIONAL DISTRESS)

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1 masses. Defendants employee nurse failed to identify precancerous masses that were very large –  
 2 two, each approximately the size of a small football. Ms. Brown relied on the waterfall clinics  
 3 pelvic exam of her in her understanding that the Nurse Practitioner was not suffering from  
 4 cancer.

5 4.

6 The Nurse Practitioner came back in after five or so minutes and performed a breast exam.  
 7 Nurse Practitioner then had me get into position for exam. The Nurse Practitioner took felt of  
 8 my abdomen and said everything felt fine and that the Nurse Practitioner felt no masses or  
 9 abnormalities. The Nurse Practitioner then took the medical device they insert into your vagina  
 10 to open it up to scrape your cervix. The Nurse Practitioner inserted it and shoved it into  
 11 place. The Nurse Practitioner then moved it side to side and tried shoving it back a little  
 12 further and couldn't. The Nurse Practitioner then retracted it and said that the Nurse Practitioner  
 13 needed to try another device. I asked her why? The Nurse Practitioner said that the Nurse  
 14 Practitioner was having difficulty seeing my cervix and the Nurse Practitioner was going to  
 15 try a different device. The Nurse Practitioner then inserted that one and had the same problem.  
 16 The Nurse Practitioner started shoving it the same as the other one. The Nurse Practitioner  
 17 asked Ms. Brown " have you had a hysterectomy? ". Ms. Brown told her no. The Nurse  
 18 Practitioner asked Ms. Brown, " are you sure? ". Ms. Brown told her that if Ms. Brown had a  
 19 hysterectomy Ms. Brown was sure that Ms. Brown would know it why? The Nurse Practitioner  
 20 then told me that the Nurse Practitioner could not find my cervix. The Nurse Practitioner then  
 21 told Ms. Brown that the Nurse Practitioner was going to consult a colleague and to go ahead and  
 22 get dressed. Ms. Brown did feeling very uneasy about this woman being any type of a medical

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1 professional if the Nurse Practitioner could not even find Ms. Brown's cervix or needed two  
 2 devices to try and locate something the Nurse Practitioner was trained to look for? Ms. Brown's  
 3 confidence was severely shaken by this Individual and the Clinic that hired her. Ms. Brown  
 4 trusted them to look after her best interests.

5 5.

6 Ms. Brown went to the desk and was told I would be called with the details of the  
 7 mammogram time and place. Ms. Brown was relieved to leave there and confused. Ms.  
 8 Brown was thinking how concerned she was about her not being able to find my cervix but,  
 9 maybe it was just an age thing? Ms. Brown am after all getting older? If there was something to  
 10 be concerned about the Nurse Practitioner would have had me stay and not had me get dressed  
 11 and leave?

12 6.

13 The Nurse Practitioner did inform Ms. Brown that there were no masses or  
 14 abnormalities when the Nurse Practitioner checked Ms. Brown and Ms. Brown thought  
 15 everything was fine.

16 7.

17 In August of 2012, Ms. Brown found out later that she had ovarian cancer. It was purely  
 18 by accident that she found it. She bent over and pinched something on her right side about  
 19 where her Gall Bladder would be. It hurt terribly. The pain didn't improve for several days so  
 20 Ms. Brown went to the North Bend Medical Center. At North Bend Medical Center she was  
 21 treated by nurse Polly in the clinic. Ms. Brown went to a room and after her vital signs were taken  
 22 Nurse Polly came in about ten minutes later. Ms. Brown told her what happened and that Ms.

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1 Brown thought she irritated her Gall Bladder. The Nurse Polly sent Ms. Brown in for blood work:  
2 and an ultra sound. Ms. Brown was called by North Bend Medical Center in a day or so later for  
3 the results.

4 8.

5 The NBMC Nurse Polly said unfortunately, the ultra sound came back that you have  
6 two masses that are so large they can't even get it all on the ultra sound. Ms. Brown was in  
7 complete shock and emotionally tramatized. The NBMC Nurse sent me over for a CAT scan of  
8 it and got those results back and they were about the size of footballs. The NBMC Nurse  
9 Practitioner then sent me upstairs to a doctor that was a gynecologist oncologist Dr. Hamilton.

10 9.

11 The NBMC Nurse Polly sent me down to the lab to do a CA125 which is a marker for  
12 ovarian cancer. Normal is 0 to 30, mine was 695. When Ms. Brown saw those numbers she sat  
13 down and cried.

14 10.

15 Ms. Brown wanted a second opinion so Ms. Brown went to Medford to a Dr. Mills who,  
16 in turn referred me to Dr. Elizabeth Munro. The she is a Gynecologist Oncologist from OHSU  
17 in Portland. The Doctor made me an appointment with her on November 14<sup>th</sup>, 2012 and did my  
18 surgery the following day. Ms. Brown was on the oncology floor for six days and had 45  
19 staples in my stomach. Ms. Brown was cut from around the top of my belly button to the top of  
20 my pubic line.

21 11.

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1 The scare looks like a railroad track. Ms. Brown indicates the scare is still ugly and  
2 Ms. Brown do not dress in front of her children or her husband anymore for the shame and  
3 embarrassment of the way it looks. Ms. Brown was very proud of the fact that I did not get  
4 any stretch marks from having my son, and that she had a rather pretty belly. Ms. Brown can't  
5 and doesn't feel good about her physical appearance any more because of the staple scars  
6 across her stomach.

7 12.

8 As a result of defendants failure to identify tumors, plaintiff's precancerous growths were  
9 allowed to grow over the course of over a year. This harms plaintiff in increasing the chances of  
10 her suffering from the effects of cancer, including increasing the likelihood of premature death  
11 due to cancer.

12 13.

13 Defendant needlessly endangered Ms. Brown by failing to timely identify ovarian cancer  
14 in her abdomen.

15 14.

16 Defendants needlessly endangered Ms. Brown by incorrectly indicating to her that the  
17 Nurse Practitioner had no masses, which misinformed her as to her real medical condition that  
18 the Nurse Practitioner had precancerous growths in her abdomen – large masses

19 15.

20 As a result of the defendant's conduct, Ms. Brown incurred additional pain and suffering  
21 as the cancerous growths grew, psychological and emotional stress and anxiety relating to delay  
22 diagnosis of cancer, pain and suffering from surgery that may not have been necessary if cancer

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1 had been identified earlier, and other pain and suffering as a result of defendants failure to  
2 properly identify the cancer. Ms. Brown has a large surgical scar, larger than the Nurse  
3 Practitioner would have had, had cancer been identified early.

4 FIRST CLAIM FOR RELIEF – NURSING MALPRACTICE

5 Plaintiff re-alleges counts 1 to 15.

6 16.

7 Defendant employed as part of its business a nurse who treated Plaintiff. At the time and  
8 place of the incident, Defendant was negligent in one or more of the following particulars:

9 (a) In failing to note and observe masses in plaintiff's abdomen.

10 (b) In failing to treat Ms. Brown's medical condition.

11 (c) In failing conduct follow-up tests on Ms. Brown including imaging studies;

12 (d) In failing to refer Ms. Brown to a physician when the nurse was not able to locate Ms.

13 Brown's uterus.

14 17.

15 As a result of the collision and Defendant's negligence, Ms. Brown has suffered pain and  
16 suffering including non-economic damages of \$ 700,000.

17 18.

18 As a result of the Defendant's nursing malpractice and negligence, Plaintiff received  
19 medical care, including surgery, and may need additional future surgery in an amount to be in the  
20 amount to be determined at trial. As a further result of the Defendant's negligence, Plaintiff will  
21 incur economic damages in an amount to be determined at trial for future medical treatment. Ms.  
22 Brown estimates that the economic damages for her past and future medical are \$ 200,000.

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SECOND CLAIM FOR RELIEF -

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

Plaintiff re-alleges counts 1 to 18.

19.

The nurse employed by Defendants had a special relationship with Ms. Brown.

Nursing staff have a duty to avoid emotional injuries. Defendant as a result of failing to identify the masses caused Ms. Brown anxiety, depression as a result of failing to identify precancerous masses in Ms. Brown's reproductive system, that were then found to be cancerous during an annual examination of Ms. Brown.

20.

As a result of the defendant's conduct, Ms. Brown incurred additional pain and suffering as the cancerous growths grew, psychological and emotional stress and anxiety relating to delay diagnosis of cancer, pain and suffering from surgery that may not have been necessary if cancer had been identified earlier, and other pain and suffering as a result of defendants failure to properly identify the cancer. Ms. Brown has a large surgical scar, larger than the Nurse Practitioner would have had, had cancer been identified early.

21.

**Ms. Brown's Harms and Losses - Damages**

Having Cancer has changed Ms. Brown's life dramatically. She was raising two children who's mother died from a blood clot. Ms. Brown felt that she would have forever to raise them both at least to age 18. Ms. Brown has a seven year old Autistic Child that needs Ms. Brown for at least eleven more years. Ms. Brown found out from my doctor Elizabeth

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1 Munro that the reason Lenore from the Waterfall Clinic could not find my cervix was, the  
2 masses were as big as footballs and weighed four pounds a piece.

3 22.

4 The masses were hanging down into Ms. Brown's vaginal canal blocking the view of  
5 her cervix! Which would explains why the Nurse Practitioner could not find Ms. Brown's  
6 cervix and thought that Ms. Brown had a hysterectomy. Ms. Brown is am not a medical expert  
7 by any means but, it would seem to me when I went to her before and the Nurse Practitioner was  
8 having so much difficulty finding my cervix, the Nurse Practitioner would have brought  
9 someone else in to see why the Nurse Practitioner couldn't find it. I would then think they  
10 would have sent me over for an ultra sound to see why as well. That it how Nurse Polly from  
11 the North Bend Medical Center found it. Then the cancer would have been diagnosed much  
12 earlier. Rather than the advanced stage that it was in.

13 23.

14 Ms. Brown worries everyday if the cancer is going to pop up somewhere else in my body.  
15 She thinks of her little boy she has custody of who is only seven and autistic children don't like  
16 change. Ms. Brown sits and cries thinking about what this little boy would go through losing the  
17 only mother he has ever known or had. It is a very devastating thing for Ms. Brown to feel and  
18 think about. He was devastated when Ms. Brown was away from him at the hospital for the six  
19 days Ms. Brown was away from surgery. Edward, wouldn't leave her side for about eleven  
20 months. Edward did not even want to go to school. Ms. Brown had to reassure him everyday  
21 that she was going to be there everyday after school to get him. Edward went from sleeping in  
22 his own bed to sleeping with Ms. Brown and he had to go with Ms. Brown everywhere.

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24.

Every time Ms. Brown has a CA125 blood test done I am on the edge wondering what the result of it will be. Higher? Or lower? I don't want to go through Chemotherapy. So many things would have been different with earlier diagnosis as with any cancer. The key to beating cancer is early diagnosis.

25.

Defendants knowingly ignored an obvious condition - not being able to find a cervix. Defendant asked Ms. Brown if she had a hysterectomy, Ms. Brown said no. Defendant's response was essentially, oh well.

26.

As a result Ms. Brown suffers from a constant fear of the cancer spreading somewhere else in her body and having to die. Ms Brown is only 56 and should be able to be around her for my little boy at least until he is 18 and graduates from high school. Her grandfather lived to be in his nineties and my mother is 76 and doing great!

27.

Ms. Brown wound up having a surgery that required having both ovaries removed, a radical hysterectomy, the fat under my stomach muscle removed because that is where cancer cells congregate and hide as well as 28 Lymph nodes removed. Blood thinners and pain medication.

28.

The fact that the cancer could have been caught by Defendants sooner is a very frightening and depressing to Ms. Brown. Ms. Brown is afraid every day and shutters to think

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of what the cancer rate numbers are with every test. Ms Brown should not have to live in fear and would not had Defendant had done its job in the first place. Ms. Brown is emotionally tired of living in fear and crying herself to sleep because of defendants negligence.

WHEREFORE, Plaintiff prays for judgment against the Defendant as follows:

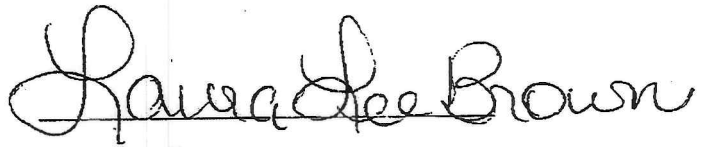
- (a) Non-economic damages in an amount to be proven at trial of \$ 700,000.
- (b) Economic damages in the amount to be proven at trial not to exceed \$ 200,000.
- (c) Plaintiff's costs and disbursements incurred herein; and,

DATED this 30<sup>th</sup> day of April, 2014.

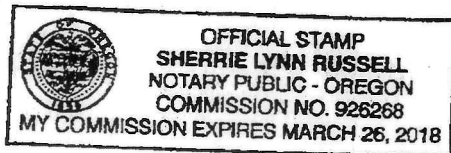
  
James Monsebroten, OSB # 981523  
Attorney for Plaintiff

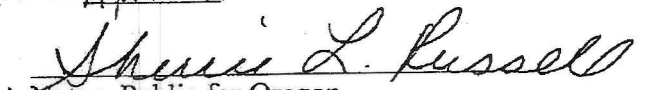
STATE OF OREGON )  
 ) ss.  
COUNTY OF COOS )

I, Laura Lee Brown, Plaintiff, under penalty of perjury, swear that to the best of my information and belief all the facts set forth by me in this complaint for negligence and negligent infliction of emotional distress are true.

  
Laura Lee Brown

SUBSCRIBED AND SWORN TO before me on April 29, 2014.



  
Notary Public for Oregon  
My commission expires: March 26, 2018

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JUL-31-2014 THU 02:28 PM

MONSEBROTEN ATTY

FAX No. 541 267 3731

P.002

**Certified True Copy****James Monsebroten**  
Attorney at Law

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF COOS

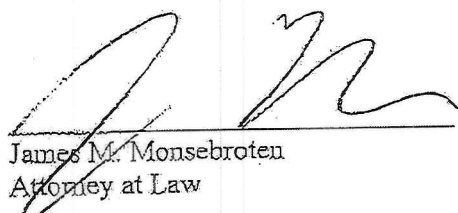
LAURA L. BROWN,  
Plaintiff,

Case No. 14CV0493

v.

10 DAY WRITTEN NOTICE  
OF INTENT TO TAKE  
DEFAULTWATERFALL CLINIC,  
INCORPORATED,  
Defendant.

Plaintiff comes now by and through its attorney and serves 10 day written notice pursuant to ORCP69A, of intent to file a default judgment against defendants. Plaintiff in the above entitled case, LAURA L. BROWN, intends to file a default judgment in this matter in 10 days if no response is filed.

Dated this 31<sup>st</sup> day of July, 2014.
  
James M. Monsebroten  
Attorney at Law

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